

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LUXEMBURG CAPITAL LLC, <i>et al.</i> ,)	CASE NO. 1:21-cv-2246
)	
Plaintiffs,)	JUDGE BRIDGET MEEHAN BRENNAN
)	
v.)	
)	
TERRENCE P. FERGUS, <i>et al.</i> ,)	<u>ORDER</u>
)	
Defendants.)	

On November 27, 2021, Plaintiffs Luxemburg Capital LLC, Michael Mears, as Trustee of various named trusts, James Hummer, Therese Hummer, Harlan Hummer, and Peter Hummer (collectively “Plaintiffs”) filed a sixteen-count complaint against Defendants Terrence Fergus, Fairway Sports Management, LLC, and Thread Fin Investments, LLC (collectively “Defendants”). (Doc. 1.) This Complaint is the culmination of many years of disputes and litigation between the parties.

On March 2, 2022, the parties filed a joint motion to stay this action so a defendant could address serious health concerns, which the Court granted. (Docs. 16, 17.) On June 15, 2022, the parties jointly moved to extend the stay for the same reasons. (Doc. 18.) The Court granted the motion. (Doc. 19.)

On March 30, 2022, Plaintiffs initiated a lawsuit against Defendants’ counsel of record in this action. *See Luxemburg Cap. LLC, et al. v. Jeffrey M. Embleton, et al.*, Cuyahoga County Court of Common Pleas Case No. CV-22-961417 (“state court litigation”). The state court action alleges legal malpractice, vicarious liability, and breach of fiduciary duty. Notably, the claims asserted against Defendants’ counsel in the state court litigation relate to their continued representation of Defendants in this matter.

The Court was not notified that Plaintiffs initiated a separate state court action challenging Defendants' counsels' representation until it attempted to hold a Case Management Conference. This was on September 6, 2022, so a little over five months after the state court litigation commenced. When Defendants' counsel informed the Court of the state court litigation, the parties were ordered to submit position statements addressing the Court's authority to issue a stay in this matter. (*See* Docs. 35, 39, 40.) After reviewing those position statements, the Court issued a stayed of this case pending final resolution of the state court litigation. (Doc. 41.)


On October 29, 2024, the Court ordered the parties to submit position statements on the status of the state court litigation, whether they will consent to the jurisdiction of the assigned magistrate judge, and the Court's authority to dismiss this matter without prejudice and allow Plaintiffs a later opportunity to seek reinstatement, if necessary. (October 29, 2024 Order.) The parties timely filed position statements. (Docs. 43, 44.) Defendants' statement restated the application of the *Colorado River* abstention doctrine and the need to ensure efficient judicial administration. (Doc. 44 at 446.) Plaintiffs' statement did not address the *Colorado River* abstention doctrine but expressed concerns about applicable statutes of limitations and prejudicial delay. (*See* Doc. 43 at 428-29.)

Having consider the parties' positions, the Court hereby extends the stay in this action pending the conclusion of *Luxemburg Capital LLC, et al. v. Jeffrey M. Embleton, et al.*, Cuyahoga County Court of Common Pleas Case No. CV-22-961417, including all appeals. This case is administratively closed and removed from the Court's active docket. Plaintiffs may file a motion to reopen this matter after the state court litigation is fully resolved, meaning final resolution by settlement agreement or the exhaustion of all appeals. No claims or defenses are

waived as a result of this Order. Any motion to reopen must be filed no later than fourteen (14) calendar days after final resolution of this state court litigation. Failure to timely move the Court to reopen may result in denial of the motion and all claims being dismissed with prejudice for failure to prosecute.

IT IS SO ORDERED.

Date: February 27, 2025


BRIDGET MEEHAN BRENNAN
UNITED STATES DISTRICT JUDGE